(3)

Supreme Court, U.S.
FILED
DEC 2 3 2004
OFFICE OF THE CLERK

No. 04-197

In The

Supreme Court of the United States

Brian Kilcullen

Petitioner

v.

Guy Lewis, et al.

Respondents

On Petition For Writ Of Certiorari
To The United States Court of Appeals
For The Eleventh Circuit

PETITION FOR REHEARING

Brian Kilcullen, *pro se*
1208 Seminole Drive
Ft. Lauderdale, Florida, 33304
Tel: (954) 772-0200
Fax: (954) 567-4941

CERTIFICATION

I, Brian Kilcullen, the Petitioner, hereby certify that this Petition for Rehearing, is restricted to the grounds specified in Supreme Court Rule 44.2 and that it is presented in good faith and not for delay.

Brian Kilcullen, *pro se*
December 23rd, 2004

CONSTITUTIONAL PROVISIONS, STATUTES & REGULATIONS

The 5th Amendment of the United States Constitution, for the Right to Due Process of Law, when subjected to the invasion of one's constitutionally protected Rights.
(Full & Fair Hearing)

18 U.S.C. 1341 "Mail Fraud"

American Bar Association ABA 3.3 & Florida Rules for Professional Conduct FL-R 4-3.3(a)(b)(c)(d) Candor Toward the Tribunal

American Bar Association ABA 3.4 & Florida Rules for Professional Conduct FL-R 4-3.4 (a)(b)(c)(d)(f)(g)(h) Fairness to Opposing Party and Counsel

American Bar Association ABA 4.1 & Florida Rules for Professional Conduct FL-R 4-4.1 (a)(b) Truthfulness in Statements to Others

American Bar Association ABA 8.4 & Florida Rules for Professional Conduct FL-R 4-8.4 (a)(b)(c)(d)(f) Misconduct

PETITION FOR REHEARING

Pursuant to Rule 44.2 of the Supreme Court Rules, I, Brian Kilcullen, hereby Petition the Supreme Court of the United States to Reconsider it's DENIAL of the Petition for Certiorari (04-197).

On December 14th, 2004, I was appraised by James Bolden, a Clerk of the Supreme Court, that Justice Rehnquist was not a participant in the Conference of November 24th, 2004, which considered this Petition for Certiorari (04-197).

Justice Rehnquist, being the Chief Justice of the Supreme Court of the United States, is at this point in time, the highest judicial officer of the United States. Likewise, he heads the Judiciary and is responsible for the conduct and processes of all courts of the land. Therefore, it is requisite that he be appraised of the frauds, deceits and schemes which have taken place in this case and the fraud on the Court, taking place in this Petition.

The nature and controlling effects of this subject matter mandate the review of the entire Court and in particular the head of the Judiciary. In the Chief Justice's absence, this Writ for Certiorari and the allegations of criminal fraud and deceit perpetrated upon this Court, should await his return or in the alternative, his replacement.

It is contrary to this Court's mandate and powers to decide this Petition otherwise.

RECORD

I, Brian Kilcullen, the Petitioner, submitted this Writ for Certiorari on June 4th, 2004. Said Writ outlined a unique and dangerous fraud scheme and enterprise operating within certain departments of the United States government. Factual contentions and criminal acts, which I witnessed and have evidence of, were sworn to under oath by myself, in said Writ and sent by US Mail to the Court and all relevant parties.

On August 23rd, 2004, the Butler Defendants, under the representation of counsel, Richard Giuffreda, waived their rights to respond, thereby, pursuant to Supreme Court Rule 15.2, un-contesting the criminal acts attributed to themselves in this matter. (Writ of Certiorari, page 10, #14 - pages 11, 12, 13 & 14, #2, #3, #5 & #9)

On September 1st, 2004, the Acting Solicitor General, Paul Clement, made appearance as counsel, but in spite of being supplied the court Waiver Form, supplied by the Clerk of the Court, in violation of Supreme Court Rule 9.2, supplied a Waiver to Respond, not indicating whom he represented.

The Writ clearly brings into question the constitutionality of federal statute (Writ for Certiorari, Questions Presented for Review, #1) and the ASG, being duly served, would naturally represent the interest of the United States of America. Likewise, a number of the defendant parties (Federal Defendants) are or were federal employees in this subject matter.

As such, I queried the Clerk of the Court as to whom the ASG was representing. Unable to do determine such, the Clerk directed me to contact the ASG's Office directly, which I did. I was contacted by an AUSA Greenspan (DOJ Appellate Division), whom explained that it was he whom advised the ASG to not respond and that the ASG was representing the

interest of both the United States of America and the Federal Defendants. (See Appendix)

Nevertheless, the ASG, representing the interest of the United States of America, made appearance as counsel for both the United States and those named federal defendants, whom are sworn to have and are presently conspiring to defraud the United States of America. A conflict of interest pursuant to the ABA Rules of Professional Conduct.

Likewise, the ASG's decision to not respond to the factual allegations within the Writ for Certiorari, per Supreme Court Rule 15.2, let's stand the criminal allegations attributed to said Federal Defendants uncontested. (Writ for Certiorari - pages 13 & 14, #6 thru #11)

On October 27th, 2004, the government contractor in this matter, attested to have defrauded the United States Department of the Treasury (US Customs & IRS), whom the federal defendants have historically protected from prosecution, filed their (EG&G Defendants) Response, directly contradicting the factual contentions of the Petitioner's.

On November 8th, 2004, I, Brian Kilcullen, filed a Reply, which outlined the following. (1) EG&G's Response constitutes a violation of 18 U.S.C. 1341 (Mail Fraud). (2) That EG&G and counsel had violated Supreme Court Rule 29.3-4 by not serving the ASG with their Response and (3) that I, Brian Kilcullen, had served upon the ASG, the EG&G Response and a letter outlining the blatant false statements therein and his (ASG) duty to report said frauds to the Court and the proper federal authorities.

On November 22nd, 2004, I, Brian Kilcullen, amended my Appendix (Reply) and provided a copy to the Clerk of the Court for distribution. Said Amendment, depicts what appears to be the ASG's response to Appendix C of my Reply, the afore

mentioned letter to the ASG and a follow up letter, chastising the Solicitor General for refusing to bring to the attention of this Court and the proper federal authorities, the deceits, frauds and scheme of the EG&G Defendants.

The Court DENIED this Petition on November 29th, 2004.

FRAUD SCHEMES

The Writ for Certiorari in this petition, clearly stated, per Supreme Court Rule 10 (a) (Writ for Certiorari, page 15 - Argument), that the inferior courts had so far departed from the accepted and usual course of judicial proceedings as to call for the exercise of this Court's supervisory powers.

As evidenced in the Questions Presented for Review (#5), it was raised that all courts should be mandated to investigate all judicial misconduct, alleged to have occurred in the course of judicial proceedings.

Here we have, not only clear and unequivocal violations of the this Court's Rules, but the sworn testimony of the Petitioner, stating that fraud has been perpetrated on the Court. That said fraud constitutes a violation of federal criminal statute, yet the Supreme Court, like the inferior courts below, denies said Petition and takes no steps or action to investigate the allegations before it.

No matter what the determination of fact, the contradictory statements of the Petitioner and EG&G clearly point to fraud on one party or the other. There exist no middle ground. Whether on Professional Code or criminal statute grounds.

The Writ for Certiorari clearly states that this matter revolves about a complex and convoluted crime. One which may be hard to follow or accept. But, nevertheless, a complicated and well-concealed crime is no less worthy of

investigation/prosecution than a simple or transparent one.

The Rules which the inferior courts have consistently ignored in this matter and which would prevent the deprivation of a constitutional right, are the ones which would permit a citizen to investigate an alleged tort and/or crime. The purpose and significance of permitting such, with respects to the 5th Amendment Due Process Clause, is paramount. Concealment of a tort/crime does not make it disappear. Does not relieve the victim or society of it's ill effects. And, more importantly, does not permit the judicial system to operate as intended. Quite to the contrary, it abrogates the judicial system and ultimately the judiciary itself completely. Thereby, undermining it's purpose and relegating the rule of law and Constitution of the United States, non-existent.

Each and every fraud perpetrated upon these courts, chips away at our civil society and the very foundation upon which it rests. The refusal of the inferior courts to investigate the frauds alleged to have been perpetrated upon them is unacceptable. The refusal of the Supreme Court of the United States, the highest court in the land, to investigate the frauds being perpetrated upon it, in this matter and Petition undermines the very foundation upon which it stands. To tolerate fraud, transparent or otherwise, reduces these courts and ultimately the judiciary itself, to extensions of criminal enterprises whom seek to further their unlawful and unconstitutional schemes by use of those instruments designed to combat them.

Here we have the United States Department of Justice (ASG, Criminal Division, Civil Division & FBI) standing by idly, whilst EG&G enacts it's fraud scheme to defray both civil and criminal liabilities, on the Supreme Court of the United States. I have sworn out numerous criminal complaints against this criminal organization and have yet to have any federal law-enforcement agency or agent query me as to my entire knowledge and evidence. Including the FBI.

Doors are locked in front of me. Special Agents, suddenly, are unavailable. Repeated messages to return phone calls are ignored. Agents outright admit that they would like to respond, but state that they do not want to see their names on court documents. Lawful FOIA requests are ignored. How clear can this be.

If, I, Brian Kilcullen, had knowledge of terrorist activity (which I do not) about to be perpetrated upon these United States, it would go unhindered by the law-enforcement forces of this county. Not because I would not try to appraise these federal law-enforcement agencies of such, but because, to date, no federal agent(s) will sit down and listen to what I have to say. By virtue of the fact that I hold knowledge and evidence of criminal activity on the part of government officials, I am essentially an "Enemy of the State". No agency, nor government official can permit me to divulge that which I know to be true and it is imperative, as evidenced by the ASG Letter to the FBI, complaining of "possible threats against government officials", that I am to be discredited as well.

Nowhere in the ASG response, to my November 1 letter, does it mention EG&G or the blatant false statements placed before the court by them.

As stated in the Writ for Certiorari (Abuse of Discretion, pages 25 & 26), it is not only what these federal officials do, but more importantly, what they refuse to do. By abuse of their discretion, they abandon their post all together and in concert with those whom have and are defrauding the United States of America (EG&G), enact a criminal scheme which undermines the Rule of Law and threatens the very foundation upon which this Country stands.

If we, as a civilized society, are to be bound by the Rule-of-Law, then so be it. Let us abide by the Rules. All the Rules. Not just those which are opportune or serve some ulterior purpose.

This Court, just as those inferior courts from which this Petition is taken, is being undermined and utilized by those whom would jeopardize this nation for their own personal gain. To permit them to do so, is to abandon all that which we, the United States of America, stand for and upon which this Nation and this Court is empowered.

The Constitution of the United States of America is not a grant of power, nor mandate of enlightenment, but an illumination of that which all men should take note of. That to stray from those inalienable rights, which all men enjoy or to permit such infringements, is to endanger the very fabric of that which holds and binds us together. Abandon the Constitution of the United States, for whatever the perceived reasoning or processes and invite the open dissension and revolt which gave birth to this Nation in the beginning!

The Chief Justice of the Supreme Court of the United States, the ultimate authority for the Judiciary, it's processes and conduct is requisite to the determination of this Writ and allegations of fraud and deceit before this Court.

The Clerk of the Court should not permit this Petition to be reheard until such time as the full Court is in session. In particular, the Chief Justice of the Supreme Court, in his individual capacity.

Respectfully submitted,
December 23rd, 2004

Brian Kilcullen, *pro se*
1208 Seminole Drive
Ft. Lauderdale, Florida, 33304
Tel: (954) 772-0200

I, Brian Kilcullen, swear that the statements and facts herein, are true and correct to the best of my knowledge and supported by numerous documents and evidence within my possession, on today's date of December 23rd, 2004.

Brian Kilcullen

The foregoing instrument was acknowledged before me this 23 day of December, 2004, by Brian Kilcullen, who is personally known to me.

Signature _____
Notary Public, State of Florida